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FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

AT ALBUQUERQUE NM

FEB 23 2000

ANTHONY CROWELL,

Applicant,

ROBERT M. MARCH
CLERK

v.

No. CIV-00-0046 MV/LCS

DONALD K. HOOVER,
ATTORNEY GENERAL FOR THE
STATE OF NEW MEXICO,
COMMONWEALTH OF VIRGINIA,

Respondents,

MEMORANDUM OPINION AND ORDER

This matter is before the Court sua sponte for preliminary consideration of Applicant's application for writ of habeas corpus under 28 U.S.C. § 2254. Rule 4 Governing Section 2254 Cases. Applicant has filed at least one such application previously. *Crowell v. New Mexico State Penitentiary Director*, No. CIV-94-0322 JC/DJS. *See Duhart v. Carlson*, 469 F.2d 471, 473 (10th Cir. 1972) (a court may take judicial notice of its own records). Under § 2244, before an applicant may file or prosecute a second or successive § 2254 application, an order authorizing the filing must be issued by the appropriate court of appeals. *And see Reid v. Oklahoma*, 101 F.3d 628, 630 (10th Cir. 1996) (applying abuse-of-the-writ principles to petition attacking execution of sentence). If the applicant does not provide the district court with an authorizing order, the § 2254 application must be transferred to the court of appeals for consideration of the request for authorization. *Coleman v. United States*, 106 F.3d 339, 341 (10th Cir. 1997); 28 U.S.C. § 1631. The instant application is Applicant's second and is not accompanied by an authorizing order. This proceeding will be transferred pursuant to 28 U.S.C. § 1631.

IT IS THEREFORE ORDERED that the Clerk is directed to transfer this case to the United States Court of Appeals for the Tenth Circuit pursuant to 28 U.S.C. § 1631.


UNITED STATES DISTRICT JUDGE

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